

COMPLAINT BY A PRISONER UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983

2 Name: Saddozai Shikeb

Prisoner Number: AY1590

Institutional Address: (CCI), P.O. Box 1905, Tehachapi, C.A. 93581

FILED

UNITED STATES DISTRICT COURT

FEB 19 2019

NORTHERN DISTRICT OF CALIFORNIA

Shikeb Saddozai

(Enter your full name.)

vs.

N. Malikian, et al..

13 _____, _____, _____

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15 (Enter the full name(s) of the defendant(s) in this action.)

IFORNIA **SUSAN Y. SOONG**
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE
"AMENDED COMPLAINT"

Case No. C-18-05558 BLF(PR)
(Provided by the clerk upon filing)

**COMPLAINT UNDER THE
CIVIL RIGHTS ACT,
42 U.S.C. § 1983**

17 | I. Exhaustion of Administrative Remedies.

18 **Note:** You must exhaust available administrative remedies before your claim can go forward. The court will dismiss any unexhausted claims.

20 A. Place of present confinement California Correctional Institution (CCI)

21 B. Is there a grievance procedure in this institution? YES NO

22 C. If so, did you present the facts in your complaint for review through the grievance
procedure? YES NO

23 D. If your answer is YES, list the appeal number and the date and result of the appeal at each
level of review. If you did not pursue any available level of appeal, explain why.

24 1. Informal appeal: Plaintiff, Shikeb Sadozai, used CDCR-602-

25 Appeal process on August 8th, 2018, to present complaint.

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28 On September 27th 2018, complaint was denied

1 2. First formal level: August 28, 2018, Plaintiff Shikeb Sadozai
2 used CDCR-602-Appeal process to present complaint, and
3 complaints went unresolved.

4 3. Second formal level: August 23rd, 2018, Plaintiff Shikeb
5 Sadozai, presented complaints to supervisory officials &
6 Warden Ron Harris during (I.C.C.) meeting & denied remedy.

7 4. Third formal level: _____
8 _____
9 _____

10 E. Is the last level to which you appealed the highest level of appeal available to you?

11 YES NO

12 F. If you did not present your claim for review through the grievance procedure, explain why.

13 _____
14 _____
15 _____

16 **II. Parties.**

17 A. Write your name and present address. Do the same for additional plaintiffs, if any.

18 Shikeb Sadozai, CDCR-AY1590, (CCI), P.O. Box 1905

19 Tehachapi, C.A. 93581

20 _____

21 B. For each defendant, provide full name, official position and place of employment.

22 N. Malikian, CDCR Correctional Officer, San Quentin State Prison C.A.

23 M. Gaitan, CDCR Correctional Officer Sergeant, San Quentin State
24 Prison, C.A.

25 Clawson, CDCR Correctional Officer, San Quentin State Prison, C.A.

26 J. Herrera, CDCR Correctional Officer Sergeant, San Quentin State
27 Prison, C.A.

28 Smith, CDCR Correctional Officer, San Quentin State Prison, C.A.

1 **III. Statement of Claim.**

2 State briefly the facts of your case. Be sure to describe how each defendant is involved
3 and to include dates, when possible. Do not give any legal arguments or cite any cases or
4 statutes. If you have more than one claim, each claim should be set forth in a separate
5 numbered paragraph.

6 (SEE: Statement of Claim Attachments pages: 4,5,6,7,8,9)

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16 **IV. Relief.**

17 Your complaint must include a request for specific relief. State briefly exactly what you
18 want the court to do for you. Do not make legal arguments and do not cite any cases or
19 statutes.

20 (SEE: Prayer for Relief Attachment page: 10)

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24 I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

25 Executed on: 02 - 12 - 2019

Date

A. fedorozzi

Signature of Plaintiff

1 STATEMENT OF CLAIM I.
2

3 1. At all times relevant to this case, plaintiff Shikeb Saddozai,
4 while detained in the custody of the California Department of
5 Corrections and Rehabilitation(CDCR), San Quentin State Prison,
6 (SQSP), on or about, July 30th, 2018, upon Saddozai's arrival to
7 (SQSP) facility, Correctional Officers in Release & Recieving
8 (R&R) seperated, Saddozai, from the protective custody group of
inmates he transferred with from the bus, and placed in a
single man cage, without reason, while all other inmates were
placed in cell tanks, adequate in space, consisting of toilets
and sinks, accessible with water.

9 2. Correctional Officers: Hill, Hutall, Sergeant Gaitan, and other
10 officers unknown to plaintiff at this time, working on of July
11 30th, 2018, in (R&R), at all times, acted under the color of state
12 law, and with deliberate indifference, locked Saddozai, in a
single man cage, over ten hours, without merit, nor equal treat-
13 ment to water or toilet access, and forced to stand, while in
unsanitary conditions, as a result of inadequate space,
inviolation of Saddozai's Eighth, and Fourteenth Amendment
under the U.S. Constitution

14

15 3. Correctional officers ignored Saddozai's pleas for help, and
16 repeatedly denied Saddozai complaint forms(CDCR-602-Appeal),
17 and medical request forms, upon Saddozai's requests, to prevent
him from initiating a complaint, inviolation of Saddozai's
First and Fourteenth Amendment of the U.S. Constitution.

18

19 4. Correctional officers confiscated Saddozai's personal property
20 outside his presence, and access, containing legal, religious,
stationary, and hygiene items, and reviewed his legal documents
without his consent violating attorney-client privilege.
Officers failed and refused returning Saddozai's property to
21 prevent him from assisting him self in his active legal cases
while on appeal, or from practicing the tenants of his muslim
22 religious faith, and from maintaining his personal hygiene,
while officers allowed other inmates upon arrival full poss-
23 ession of their properties, violating Saddozai's First, Fifth,
Sixth, Eighth, Fourteenth Amendments of the U.S. Constitution
24 and the Religious Land Use and Institutionalized Persons Act.

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1 5. Correctional officers: Hill, Hutall, Gaitan, and others who
2 failed to intervene, unknown at this time, acted with
3 deliberate indifference, placed Sadozai into general population,
4 while having advance knowledge, Sadozai is classified as
5 protective custody, with the intent of placing Sadozai in
6 reasonable danger of his safety, as a result of Sadozai's
7 complaining and against Sadozai's protest, and continued with-
8 holding his personal property, outside his presence and access
9 containing legal, religious, stationary, and hygiene, to prevent
10 Sadozai from complaining, in violation of his First, Fifth,
11 Sixth, Eighth, Fourteenth Amendments of the U.S. Constitution
12

13 6. While, Sadozai, was assigned to third tier Badger section, cell
14 No. 327, Correctional officers: Malikian, Thompson, and others
15 unknown at this time that failed to intervene, repeatedly
16 denied, and restricted, Sadozai upon his requests, to cleaning
17 supplies, equipment, showers, and the means to maintain his
18 physical, and mental well being on a daily basis, forced to
19 live substandard, unsanitary living conditions in violation
20 of facility guidelines within the meaning of CCR 15 § 3060.,
3061., 3062., and Sadozai's Eighth Amendment of the U.S.
Constitution to be free against cruel and unusual punishment.

21 7. Said conditions prevented Sadozai from practicing the
22 tenants of his Muslim religious faith to daily prayer, require
23 personal cleanliness, and clean cell quarters, and as such
24 adversely effected Sadozai's health, causing painful skin
25 rashes, and infections.

26 8. Correctional officers Malikian, Nicholas, Thompson, disregarded
27 Sadozai's request for medical attention, and repeatedly
denied Sadozai medical and complaint forms to prevent
Sadozai from initiating a complaint, which fail to be made
readily available on housing units.

28 9. Correctional officer Malikian, responsible for distributing
29 and accepting mail, intentionally destroyed Sadozai's legal
30 and personal correspondence to obstruct his access to the
31 courts, and to prevent him in seeking help. Malikian, threatened
32 to beat and batter Sadozai, in the presence of inmates in
33 nearby cells, and stated to Sadozai that he does not like his
34 kind of people, out of retaliatory, and discriminatory animus
35 to Sadozai's complaining about the conditions of his and
36 confinement, violating Sadozai's First, Sixth, Eighth, and
37 Fourteenth Amendment of the U.S. Constitution.

- 1 10. Correctional officer Malikian, incited and provoked inmates
2 within housing unit to attack Sadozai, by disclosing his
3 charged offense and classification as protective custody to
other inmates, with intent of placing Sadozai in reasonable
danger of his safety.
- 4
- 5 11. On of August 14th, 2018, Sadozai, after returning from an
evening meal, awaiting for his cell door to be unlocked by
6 officer Malikian, was beaten and battered by four inmates,
and while Sadozai attempted to protect his face and head,
7 correctional officer Clawson, without verbal warning, or
warning shots discharged and fired his weapon shooting
8 Sadozai on his lower back, rather than the intended target,
and as a result assailants failed to comply, and continued to
9 assault Sadozai, violating his Eighth Amendment of the U.S.
Constitution.
- 10
- 11 12. Correctional officer Clawson, acted with deliberate indifference,
12 and had in his possession at all times, chemical agents
that is less likely to relate to death or serious bodily
injury, deliberately failed the use of alternatives to the
13 immediate use of deadly force, to cause Sadozai injury,
while being the victim, out of retaliation for complaining.
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- 16 13. Sadozai, was removed from housing unit in handcuffs behind
his back as punishment to inflict additional pain, cuts, and
17 bruises, and was repeatedly denied complaint forms or from
prosecuting charges against his attackers.
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- 20 14. Sadozai was forced to strip naked, in the presence of non-
medical personnel. No immediate doctors attention or medician
21 was provided, upon Sadozai's multiple request, for his
inflicted injuries, and pain, nor reasonable accommodations
22 made for his physical disabilities, efecting his life activit-
ies, resulting from assault by inmates, and officers excess-
23 ive force, leaving Sadozai incapacitated and his under clothes
stained with blood, in violation of Sadozai's, First, Fourth,
24 Fifth, Eighth, and Fourteenth Amendment rights secured under
the U.S. Constitution.
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1 15. Correctional officers transferred Saddozai, to disciplinary
2 housing, Carson unit, without hearing, and with loss of
3 privileges, devoid of disciplinary violations, when it was
4 reflected that Saddozai was the victim of assault, in
5 violation of Saddozai's Fourteenth Amendment right to due
6 process of the U.S. Constitution.

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10 16. Correctional officers, and their supervisory officials:
11 T. Tran, Ramirez, Grimes, Ochoa, Valdez, Perez, Serrintino, and other
12 officers unknown at this time, acted with deliberate
13 indifference, restricted Saddozai from maintaining his
14 personal hygiene to daily showers, exchange of clean undam-
15 age clothing and linen, and forced to eat in unsanitary,
16 substandard living conditions, without cleaning supplies or
17 equipment, adversely effecting Saddozai's health causing him
18 painful skin rashes and infections, violating Saddozai's
19 Eighth Amendment of the U.S. Constitution.

20

21 17. While, Saddozai, was placed in disciplinary housing, officers
22 failed providing Saddozai equal rights and privileges made
23 available to all inmates within (SQSP) custody to daily fresh
24 air, excercise, thus causing Saddozai mental and physical
25 deterioration, nor allowed Saddozai to participate in law
library, educational or mental health programs, or religious
services, and failed and refused Saddozai phone privileges,
to prevent him from seeking help from attorney and family,
during his active legal cases, while on appeal, in violation
of Saddozai's First, Sixth, Eighth, Fourteenth Amendment rights
of the U.S. Constitution, and the Religious Land Use and
Institutionalized Persons Act.

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27 18. Correctional officers, continued to seperate and deny
Saddozai's access to his legal, religious, stationary, hygiene
and purchased canteen food, and repeatedly denied his request
to complaint and medical forms, that are not made readily
available on unit to prevent Saddozai from initiating a
complaint. Saddozai alerted supervisory officials and (SQSP)
facility Warden Ron Davis, during Institutional Classification
Committee(ICC) about ongoing abuse and misstreatment, and
Saddozai's complaints went ignored without remedy.

1 19. It was determined(SQSP),Correctional officers, and their
2 supervisory officials in error placed Sadozai into general
3 population, when he was initially classified as protective
4 custody, as was made apparent upon arrival with protective
5 custody, and would be returned back to protective custody
6 classification.

7

8 20. Sadozai, was transferred to protective custody within (SQSP)
9 Alpine housing unit, and upon assigned placement was repeat-
10 edly denied access to the following: law library, religious
11 services, mental health services, cleaning supplies, soap,
12 clean clothing and linen exchanges, and restricted Sadozai
from daily means in maintaining his personal hygiene, as well
as showers, keeping living area clean, while forced to consume
meals in said substandard and unsanitary conditions,
consisting of shared toilets, inadequate of space, and ventila-
13 tion with cell mate, in virtually twenty four hour isolation,
14 and repeatedly obstructed his access to attorney and family
15 to prevent Sadozai from seeking help and assisting him self
16 in active legal cases, on appeal.

17 21. as a result of said conditions, caused Sadozai to incur
18 painful skin rashes and infections. Sadozai was repeatedly
19 denied complaint and medical forms, not made readily available
20 on housing units, by correctional officers and their
21 supervisory officials: Moore, Prieto, Smith, J. Garibay, Brown,
22 Fueller, Felix, Puno, Sergeants: J. Herrera, C. King, R. Aiello,
23 France, and other officers unknown at this time who failed
24 and refused to intervene to prevent Sadozai from initiating
25 a complaint, that were responsible for Sadozai's welfare,
26 in violation of his First, Sixth, Eighth, Fourteenth Amendments
27 of the U.S. Constitution.

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29 22. While in the custody of (SQSP), Sadozai, was denied equal
30 rights and privileges made available to inmates to continue
31 ongoing religious muslim kosher meals from prior institution
32 nor reasonable accommodations and effort made by correctional
33 officers or chaplin services to participate and attend
34 scheduled services, thus restricting Sadozai from practicing
35 the tenants of his muslim religious faith, in violation of
36 Sadozai's First Amendment right to the free excercise
37 clause of the U.S. Constitution, and the Religious Land Use
38 Institutionalized Persons Act.

1 23. Aforementioned correctional officers continuously denied
2 and discriminated against Sadozai's rights to scheduled
3 yard recreation out-of-cell-time, to fresh air and exercise
4 failed and refused to operate seven days a week nor the
5 minimum, thereby placing Sadozai in serious threat of his
6 health and safety, resulting in virtually twenty four hour
7 lockdowns during Sadozai's custody within (SQSP), thus
8 causing physical injuries, due to limited movement, while
9 confined to cell quarters at all times, as well as adversely
10 effecting Sadozai emotionally and mentally, causing him to
11 seek mental health treatment within the (SQSP) Mental Health
12 System Delivery Service (MHSDS) at the CCCMS level of care,
13 as a result of distress, which officers had also obstructed
14 Sadozai from attending weekly, in violation of his Eighth &
15 Fourteenth Amendment of the U.S. Constitution.

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18 24. Out of retaliation to Sadozai's complaining against
19 correctional officers, and their supervisors, abuse, and
20 mistreatment, Sadozai was transferred to prison facility
21 (CCI), involuntarily against initial screening recommendation
22 Sadozai, provided to his correctional counselor; V. Rapisura,
23 with the intent of placing him undue hardship, and by lack
24 of visitation by his attorney and family due to distance in
25 prison placement in violation of (CDCR) policy, CCR 15 § 3375.
26 2., (b)(10)., California Penal Code sections; 5068., 6350(a).,
27 and in violation of Sadozai's Eighth, and Fourteenth,
Amendment right of the U.S. Constitution.

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38 25. At all times herein mentioned each, and every one of
39 defendants was the agent, servant, employee, joint venturer,
40 and/or franchisee of the other, and each was at all times
41 acting "Under Color of State Law", within the course of said
42 agency, employment, joint venture and/or franchise, and that
43 was each and every defendant, as aforesaid, when acting as
44 principal was negligent and reckless in the selection
45 hiring process, entrustment, and supervision of each and every
46 other defendant as an agent, servant, employee, assistant, and
47 consultant. Plaintiff Sadozai is informed and believes and
48 thereupon alleges that of each said named defendant and
49 fictitious defendant is legally responsible in some manner
50 for the occurrence herein alleged and was a substantial
51 factor in causing the injuries herein alleged.

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1 PRAYER FOR RELIEF.

2 WHEREFORE, plaintiff respectfully pray that this court
3 enter judgment

4 1. Granting Plaintiff Shikeb Saddozai a declaration that the acts
5 and omissions described herein violate plaintiffs rights under
6 the constitution, and laws of the United States.

7 2. A preliminary and permanent injunction ordering defendants to
8 cease their physical violence and to be retrained and super-
9 vised in carrying out policy and procedure.

10 3. Granting plaintiff Saddozai compensatory damages in the
11 amount of \$3,000,000.00 against each defendant jointly and
12 severally.

13 4. Plaintiff Saddozai seeks punitive damages in the amount of
14 \$3,000,000.00 against each defendant, jointly and severally.

15 5. Plaintiff seeks a jury trial on all issues triable by jury.

16 6. Plaintiff also seek recovery of their cost in this suit
17 and

18 7. Any additional relief this court deems just, proper, and
19 equitable.

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21 I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS
22 TRUE AND CORRECT .

23 Executed on February 12, 2019



24 Plaintiff Shikeb Saddozai